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August 17, 2005

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation in CC Docket No. 96-45 – Petition of TracFone Wireless, Inc. for Forbearance; Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Florida, Massachusetts, New York, North Carolina, Tennessee and Virginia

Dear Ms. Dortch:

On August 16, 2005, F. J. Pollak, President and Chief Executive Officer of TracFone Wireless, Inc., and I met with Jessica Rosenworcel, Legal Advisor to Commissioner Michael Copps.

During this meeting, we discussed TracFone's pending petition for forbearance from application of Section 214(e)(1)(A) of the Communications Act and Section 54.201(i) of the Commission's rules, and its pending petitions for designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Florida, Massachusetts, New York, North Carolina, Tennessee, and Virginia. Specifically, we addressed TracFone's proposal to offer Lifeline service if its petition for forbearance is granted and if its petitions for designation as an Eligible Telecommunications Carrier are approved. We provided Ms. Rosenworcel with a written summary of the points discussed during the meeting. A copy of that written summary is enclosed herewith. In addition, we provided Ms. Rosenworcel with two documents already on the record in this proceeding: 1) Ex Parte Supplement to Petition for Forbearance and Petitions for Designation as an Eligible Telecommunications Carrier, submitted by TracFone July 15, 2005; and 2) a letter from the Hon. Jeb Bush, Governor, State of Florida, to the Hon. Michael K. Powell (then Chairman of the Commission), dated November 9, 2004, supporting TracFone's petition for designation as an Eligible Telecommunications Carrier for the State of Florida.

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Pursuant to Section 1.1206(b) of the Commission's Rules, this notice is being filed electronically in the above-captioned docket. If you have any questions regarding this matter, please feel free to contact undersigned counsel for TracFone.

Sincerely,

A handwritten signature in black ink, consisting of several stylized, overlapping loops and a long horizontal stroke extending to the right.

Mitchell F. Brecher

Enclosures

cc: Ms. Jessica Rosenworcel

TRACFONE WIRELESS, INC.
CC Docket No. 96-45
ELIGIBLE TELECOMMUNICATIONS CARRIER/LIFELINE PROPOSAL
FCC MEETINGS – AUGUST 16, 2005

- TracFone has petitioned for designation as an Eligible Telecommunications Carrier (ETC) in 8 states:

Alabama
Connecticut
Florida
Massachusetts
New York
North Carolina
Tennessee
Virginia

- TracFone (a wireless reseller) petitioned for forbearance from application of Section 214(e)(1)(A) of the Communications Act and Section 54.201(i) of the Commission's Rules. Those sections require that ETCs provide service either using their own facilities or a combination of their own facilities and resale of other carriers' services.
- TracFone owns no facilities; instead it uses a "virtual network" of services obtained from more than 30 providers, pursuant to negotiated prices. Thus, forbearance is necessary to designate TracFone as an ETC.
- TracFone's proposal is unusual for another reason: unlike other ETCs (wireline and wireless), TracFone does not seek to use universal service funding for high cost support; it only seeks USF funds to offer a Lifeline program to qualifying low income consumers.
- Limiting ETC USF support to Lifeline does not require new rules or waiver of existing rules; FCC has authority to condition approvals, and TracFone would accept a condition limiting its entitlement to USF funds to provide Lifeline service only; limiting TracFone's USF support to Lifeline also is intended to reduce any impact on the USF.
- TracFone hopes to increase participation in Lifeline service above the very low levels of current participation. Based on the most recent data available, only 33.7% of consumers eligible to participate in Lifeline receive the benefit of Lifeline rates subsidized by the USF. In the states where TracFone has applied for ETC status the participation rates are low:

Alabama	8.5%
Connecticut	30.7%
Florida	13.5%
Massachusetts	38.8%
New York	31.7%
North Carolina	16.1%
Tennessee	6.4%
Virginia	6.6%

[source: In the Matter of Lifeline and Link-Up (*Report and Order and Further Notice of Proposed Rulemaking*), 19 FCC Rcd 8302 (2004) at Table 1.A.

- TracFone's prepaid wireless services are beneficial to low income, low volume users.
 - No contracts
 - No minimum commitment periods
 - No volume commitments
 - No credit checks
 - Pay-as-you-go (you only buy as much as you need; can always replenish).
- TracFone desires to offer an affordable wireless option to qualifying Lifeline consumers to whom wireless service (which may be more suited to some consumers' telecommunications needs) may be otherwise unavailable.
- TracFone offers service through 2 brands – TracFone and Net 10. It plans to offer Lifeline programs with both brands. Those programs are described in a July 15, 2005 supplement, attached to this presentation.
- TracFone is not seeking to use universal service funds to bring competition to high cost areas. Rather it seeks to make wireless service affordable to all consumers, including Lifeline-eligible low income consumers
- TracFone's ETC proposal is consistent with competitive and technological neutrality among service providers: TracFone will provide all services required of ETCs and provided by other ETCs. TracFone's customers do not care whether its service is provided over its own network or via resale; those customers care about the quality and reliability of the service and the price.
- Equal access is unnecessary and not relevant to TracFone's Lifeline proposal since there are no additional charges for toll calls ("a minute is a minute").
- FCC's 1997 decision not to forbear from the "facilities-based" requirement of Section 214(e)(1)(A) is not relevant to TracFone's petition. FCC was concerned that if resellers were ETC's they would get the benefit of two USF subsidies: i) their own; and ii) the rates charged by their underlying carriers who were ILECs

required to charge wholesale rates (pursuant to Section 251(c)(4) of the Communications Act) and whose rates already were supported by USF. In contrast, TracFone's vendors are not required to charge government-approved "wholesale" rates based on avoided cost; instead their rates to TracFone are negotiated rates based on market forces. In addition, Lifeline support, unlike high cost support, is eligible-customer-specific. Amount that ETCs receive for Lifeline has nothing to do with their high cost support. Today, carriers can – and do – receive both.

- TracFone is prepared to comply with all ETC requirements, including those adopted by the FCC earlier this year. It has already demonstrated that it will comply fully with the certification of eligibility requirements and verification of continuing eligibility requirements in the FCC's rules.
- TracFone's ETC petitions have been opposed by ILEC interests which receive USF support but who do not want anyone else to receive it. Objectors include:

BellSouth
Frontier
Verizon
New York State Telephone Association
TDS
Fred Williamson & Associates
TCA, Inc.

- TracFone's ETC petitions have been endorsed by entities concerned with availability of affordable telecommunications service to consumers. Supporters include:

Hon. Jeb Bush, Governor of Florida
League of United Latin American Citizens
National Consumers League
New York Public Interest Research Group
Sustainable Markets Foundation

- TracFone is anxious to make its Lifeline services available to low income consumers, and it is prepared to begin offering Lifeline immediately upon Commission grant of its petition for forbearance and approval of its ETC petitions.